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| 25854 7590 12/07/2009 BRYAN W. BOCKHOP, ESQ. BOCKHOP & ASSOCIATES, LLC 2375 MOSSY BRANCH DR. SNELLVILLE, GA 30078 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/761,987

Applicant(s)

BROUMAND, JOSEPH

Examiner

AFAF AHMED

Art Unit

3622

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 3, 7, 9, 11, 13-18, 40, 68 and 69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-3, 7, 9, 11, 13-18, 40, 68 and 69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This action is in reply to the amendment filed on 08/17/2009.
2. Claims 11, 13-17, 27, 32 68 and 69 have been amended.
3. Claims 1, 4-6, 8, 10, 12, 19-26, 34-39,41-67 have been canceled.
4. Claims 2-3, 7, 9, 11, 13-18, 40, 68 and 69 are currently pending and have been examined.

Response to Applicant's Arguments

5. Applicant's amendments and arguments filed on 08/17/2009 have been fully considered and discussed in the next section. Applicant is reminded that the claims must be given its broadest, reasonable interpretation.

6. With regard to Evidence of Secondary consideration. Applicant's amendment has failed to provide an appropriate affidavit or declaration. Therefore, the Evidence of Secondary Consideration is not given any further consideration.

7. With regard to claims 13-17 objection, Applicant has amended the claims. Therefore, the claim objection is withdrawn.

8. With regard to claims 27, 68 and 69 rejection under 35 USC § 112 second paragraph, Applicant has amended the claims. Therefore the claim rejection under 35 USC § 112 second paragraph is withdrawn.

9. With regard to claims 27, 68 and 69 rejection under 35 USC § 101, Applicant has amended the claims. Therefore the claim rejection under 35 USC § 101 is withdrawn.

10. With regard to claims 7, 9, 27, 68 and 69 rejection under 35 USC § 103 (a), Applicant's argument are considered, but they are not persuaded. Applicant is reminded that the claims must be given its broadest, reasonable interpretation.

- Applicant argues that *"Szabo states only that a higher ad rate is charged based on demographically targeted advertising that predicting the ad response rate based on demographic factors"*.

Examiner respectfully disagrees. Szabo in at least column 28, lines 16-34 discloses an aspect of the invention that provides a conditional probability of a subsequent action by the user may be

accessed for each interaction and that on the basis of that probability, an economic parameter altered. For example, the selection of hyperlink by the user through a browser may be associated with a calculated probability that the user will subsequently purchase a good or service.

This probability is then used to calculate an advertiser charge for delivery of advertisement, or to prioritize the advertisements sent to the user in order to maximize the utility to the selected advertiser, the advertisement serving system operator, to the user or some combination thereof. this probability may be calculated based on population statistics plus a recent history of the particular user, a long term monitoring of the user through the use of the cookies and a database or other schemes or through express input of user characteristics, such as demographic profile, survey response or a direct user communication.

- Applicant argues that *"nowhere does Szabo disclose a bounty calculating system in which a maximum bounty is multiplied by any sort of discounting factor, much less a factor that is determined by comparing opt-in users to user who have not opted-in"*.

Examiner respectfully disagrees. Applicant is reminded that claims 27, 68 and 69 are rejected under the combination of Frengut and Szabo references.

Frengut in at least paragraphs 53-56 discloses an embodiment of advertising rates that is based on statistical data about users and advertisers. Statistical data includes the number of matching users who actually receive the advertisement (opt-out and opt-in) and the most frequented ad pages (frequency of a selected type of action). The number of times certain custom pages are accessed (opt-in) and the number of time custom pages are accessed (frequency of a selected type of action).

Frengut in at least paragraph 53 discloses a variety of advertising rate schemes that may be employed to generate revenue to support the customized service (opt-in). The more narrow the target, the higher the rate. Furthermore, Frengut, in at least paragraph 55 discloses advertising rates based on statistical data about the user and the advertiser, such as the number of times certain custom pages are accessed (opt-in) and the number of time custom pages are accessed (frequency of a selected type of action). The numbers of matching users who actually receive the advertisement (opt-out and opt-in) and the most frequented ad pages (frequency of a selected type of action).

Szabo in at least column 28, lines 4-34 discloses an embodiment of a higher effectiveness of advertising to potential consumers termed the ad response rate. The ad response rate is the probability that the potential consumer will purchase a particular item is correlated with certain personal characteristics, including demographic characteristics of the person or family unit. Thus, by predicting the ad response rate for a person, using a predicted acceptance rate to determine the

amount that an advertiser should be charged for "high value customers, those that are predicted to accept/buy the advertiser's product/service."

Using an example as follows: let's say that a high value customer is worth spending (\$2 of advertising dollars) therefore a "lower value customer, a customer which is predicted to for example only buy on occasion" is worth less in the amount of advertising dollars that an advertiser is willing to spend (in this example we will use \$0.50) on that "lower value customer." The difference in advertising dollars between the "high value" and "lower value" customer is representative of the discount. The discount is equal to the difference in advertising dollars (\$2.00 minus \$0.50) divided by the maximum (which is represented by the value of a high value customer or \$2.00) X 100. In this example the discount is 75%.

Szabo also in at least column 26, lines 48-50 discloses an embodiment where the probability of user responding in desired way to the ad is not exceedingly high. In that case the cost per impression could be lower (discounted) or a higher valued ad substituted. The advertising rates may therefore be variable and even computed according to a continuous formula based on the characteristics of the user, the present search and past history of the user and possibly other factors for each imprint or user.

It would have been obvious to one of ordinary skill in the art at the time of the to include in the customized user interface and targeted marketing forum of Frengut the ability to charge advertiser based on predicted consumer values as taught by Szabo, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of (optimizing the presentation of advertising to potential consumers and achieving a higher effectiveness of advertising) the combination were predictable.

Further more, claims 27,68, 69 nor their dependent claims *recite billing the advertiser based on the quality of the information sent about the user to the advertiser. Such a quality determination is a predictor of the likelihood that the user will purchase from the advertiser. Thus, the advertiser is billed more when the information provided to the advertiser about the user is more likely to result in a sale than when the information is less likely to result in a sale.* Applicant is reminded that although claims are interpreted in light of the specification, limitations from the specification are not read into the claims (In re Van Geuns, 26 USPQ2d 1057 (CA FC 1993)).

11. With regard to Applicant's argument with reference to Detrick reference. Applicant's arguments are moot, because Applicant has canceled the limitation of: an objective factor being a number between 0 and 1 that indicates a quality of the user information, which Detrick reference was applied to.

12. With regard to claims 11 and 40, Applicant has attempted to challenge the Examiner's taking of Official Notice on pages 9 and 10 of the Office Action.

Applicant argues that "nothing in the Official Notice with any of other cited references would teach or suggest the predictive billing system recited in the amended independent claim."

The Official Notice was taken to address the limitation of "*determining that part of the user information is missing and using statistical census data to complete the user information*". The Official Notice was not taken to address any part of the independent claim(s). Furthermore, Applicant did not timely traverse the Official Notice taken.

Additionally, Applicant has not provided adequate information or argument so that on its face it creates a reasonable doubt regarding the circumstances justifying the official notice (MPEP § 2144.03). To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37CFR1.111 (b). See also *Cheveanard*, 139 F.2 d at 713,60 USPQ at 241.

Therefore, the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. Therefore, the Examiner's taking of Official Notice has been maintained.

Claim Rejections - 35 USC § 112

13. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

14. Claims 1 and 69 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

15. Claim 1 recites the limitation of: *generating a bill with the promoter server computer and transmitting the bill to the advertiser*. The specification teaches *the promoter server bills each advertiser according to a flexible pricing algorithm* (paragraph 51). The specification does not teach *generating a bill with the promoter server computer and transmitting the bill to the advertiser*.

16. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

17. Claim 1 is rejected under 35 U.S.C. 112, second paragraph. There is insufficient antecedent basis for the following limitation:

18. Claim 1 recites the limitation of: *transmitting the user information from the digital computer to the advertiser*. Appropriate correction and/or clarification is required.

19. Claim 27, 68 and 69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

20. claims 27, 68 and 69 recite the limitation of: *generating a bill with the promoter server computer and transmitting the bill to the advertiser, for each user that has opted -in for receiving information from the advertiser an amount that is determined by subtracting from a predetermined maximum bounty a product of the predetermined maximum bounty times a difference between a first average number and a second average number, wherein the first average number is an average of frequency who have opted- in to receiving information from the advertiser, and wherein the second average number is an average of frequency of the selected type of action performed by users accessing advertisement from the advertiser without having opted-in*.

It is unclear what Applicant is referring to by *billing an advertiser an amount that is determined by subtracting from a predetermined maximum bounty a product of the predetermined maximum bounty times a difference between a first average number and a second average number, wherein the first average number is an average of frequency who have opted- in to receiving information from the advertiser, and wherein the second average number is an average of frequency of the selected type of action performed by users accessing advertisement from the advertiser without having opted-in*. The second average number does not exist, because there is no user who has accessed the advertisement from the advertiser without having opted-in.

Billing the advertiser an amount is based on the steps of: *displaying a user web page to a plurality of users; collect and receive the user information; and for each of the plurality of users whose user information matches the set of criteria defined by the advertiser receives an on-line promotion from the advertiser*.

That is each user of the plurality of users has opted-in, because each user of the plurality of the users has submitted his or her information. Therefore, there is no user who has not opted-in. As a result there is no second average number that represents the *average of frequency of the selected type of action performed by users accessing advertisement from the advertiser without having opted-in*. Thus, it is unclear what Applicant is referring to by second average number, since the second average number does not exist as explained above. Appropriate correction and/or clarification is required.

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

23. Claims 7, 9, 27, 68 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al, US Pub No: 2002/0046099 in view of Szabo, US Pat No: 6,868,525 B1.

Claim 27:

Frengut discloses:

- *displaying a web page to a plurality of users, the web page having a plurality of fields for collecting user information; receiving the user information at a promoter server computer from each of the plurality of users (see at least paragraphs 28 and 30);*
- *using the promoter server computer to compare the user information associated with the user to the set of criteria associated with each advertiser (see at least paragraphs 25 and 46);*
- *for each of the plurality of users whose user information matches the set of criteria defined by the advertiser: transmitting from the promoter server computer a display of an on line promotion from the advertiser (see at least paragraphs 56-57);*
- *transmitting the user information from the digital computer to the advertiser (see at least paragraphs 26 and 39) and*
- *employing the promoter server computer to determine when a user has opted-in to receive information from the advertiser (see at least paragraph 56);*

The combination of Frengut and Szabo discloses:

- *generating a bill with the promoter server computer and transmitting the bill to the advertiser, for each user that has opted –in for receiving information from the*

advertiser an amount that is determined by subtracting from a predetermined maximum bounty a product of the predetermined maximum bounty times a difference between a first average number and a second average number, wherein the first average number is an average of frequency who have opted-in to receiving information from the advertiser, and wherein the second average number is an average of frequency of the selected type of action performed by users accessing advertisement from the advertiser without having opted-in;

Frengut in at least paragraphs 53-56 discloses an embodiment of advertising rates that is based on statistical data about users and advertisers. Statistical data includes the number of matching users who actually receive the advertisement (opt-out and opt-in) and the most frequented ad pages (frequency of a selected type of action). The number of times certain custom pages are accessed (opt-in) and the number of time custom pages are accessed (frequency of a selected type of action).

Frengut in at least paragraph 53 discloses a variety of advertising rate schemes that may be employed to generate revenue to support the customized service (opt-in). The more narrow the target, the higher the rate. Furthermore, Frengut, in at least paragraph 55 discloses advertising rates based on statistical data about the user and the advertiser, such as the number of times certain custom pages are accessed (opt-in) and the number of time custom pages are accessed (frequency of a selected type of action). The numbers of matching users who actually receive the advertisement (opt-out and opt-in) and the most frequented ad pages (frequency of a selected type of action).

Szabo in at least column 28, lines 4-34 discloses an embodiment of a higher effectiveness of advertising to potential consumers termed the ad response rate. The ad response rate is the probability that the potential consumer will purchase a particular item is correlated with certain personal characteristics, including demographic characteristics of the person or family unit. Thus, by predicting the ad response rate for a person, using a predicted acceptance rate to determine the amount that an advertiser should be charged for "high value customers, those that are predicted to accept/buy the advertiser's product/service."

Using an example as follows: let's say that a high value customer is worth spending (\$2 of advertising dollars) therefore a "lower value customer, a customer which is predicted to for example only buy on occasion" is worth less in the amount of advertising dollars that an advertiser is willing to spend (in this example we will use \$0.50) on that "lower value customer." The difference in advertising dollars between the

"high value" and "lower value" customer is representative of the discount. The discount is equal to the difference in advertising dollars (\$2.00 minus \$0.50) divided by the maximum (which is represented by the value of a high value customer or \$2.00) X 100. In this example the discount is 75%.

Szabo also in at least column 26, lines 48-50 discloses an embodiment where the probability of user responding in desired way to the ad is not exceedingly high. In that case the cost per impression could be lower (discounted) or a higher valued ad substituted. The advertising rates may therefore be variable and even computed according to a continuous formula based on the characteristics of the user, the present search and past history of the user and possibly other factors for each imprint or user.

It would have been obvious to one of ordinary skill in the art at the time of the to include in the customized user interface and targeted marketing forum of Frengut the ability to charge advertiser based on predicted consumer values as taught by Szabo, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of (optimizing the presentation of advertising to potential consumers and achieving a higher effectiveness of advertising) the combination were predictable.

Claim 68:

Frengut discloses:

- *receiving target information from a plurality of advertisers, the target information received from each advertiser setting forth a set of criteria that is to be used to select to which of the plurality of users each advertiser targets for on-line promotions (see at least paragraphs 27, 45, 49 and 51);*
- *presenting a registration window to a user of the plurality of users, the registration window including input fields that allow the user to input user information (see at least paragraphs 28 and 30);*
- *upon the user completing entry of the user information into the input fields of the registration window, comparing the user information associated with the user to the set of criteria associated with each advertiser (see at least paragraphs 25 and 46);*
- *presenting to the user an advertiser window that lists only each advertiser whose criteria are matched by the user information entered by the user; and receiving*

- input from the user indicating which selected advertisers listed in the advertiser window the user desires information (see at least paragraphs 26 and 39); and*
- *upon receiving the input from the user, transmitting to each of the selected advertisers a set of the user information associated with the user (see at least paragraph 56);*
 - *determining when a user has opted-in to receiving information from the advertiser (see at least paragraphs 55 and 56);*
 - *generating a bill with the promoter server computer and transmitting the bill to the advertiser (see at least paragraph 53);*

The combination of Frengut and Szabo discloses:

- *generating a bill with the promoter server computer and transmitting the bill to the advertiser, for each user that has opted –in for receiving information from the advertiser an amount that is determined by subtracting from a predetermined maximum bounty a product of the predetermined maximum bounty times a difference between a first average number and a second average number, wherein the first average number is an average of frequency who have opted-in to receiving information from the advertiser, and wherein the second average number is an average of frequency of the selected type of action performed by users accessing advertisement from the advertiser without having opted-in;*

Frengut in at least paragraphs 53-56 discloses an embodiment of advertising rates that is based on statistical data about users and advertisers. Statistical data includes the number of matching users who actually receive the advertisement (opt-out and opt-in) and the most frequented ad pages (frequency of a selected type of action). The number of times certain custom pages are accessed (opt-in) and the number of time custom pages are accessed (frequency of a selected type of action). Frengut in at least paragraph 53 discloses a variety of advertising rate schemes that may be employed to generate revenue to support the customized service (opt-in). The more narrow the target, the higher the rate. Furthermore, Frengut, in at least paragraph 55 discloses advertising rates based on statistical data about the user and the advertiser, such as the number of times certain custom pages are accessed (opt-in) and the number of time custom pages are accessed (frequency of a selected type of action). The numbers of matching users who actually receive the advertisement (opt-out and opt-in) and the most frequented ad pages (frequency of a selected type of action).

Szabo in at least column 28, lines 4-34 discloses an embodiment of a higher effectiveness of advertising to potential consumers termed the ad response rate. The

ad response rate is the probability that the potential consumer will purchase a particular item is correlated with certain personal characteristics, including demographic characteristics of the person or family unit. Thus, by predicting the ad response rate for a person, using a predicted acceptance rate to determine the amount that an advertiser should be charged for "high value customers, those that are predicted to accept/buy the advertiser's product/service." Using an example as follows: let's say that a high value customer is worth spending (\$2 of advertising dollars) therefore a "lower value customer, a customer which is predicted to for example only buy on occasion" is worth less in the amount of advertising dollars that an advertiser is willing to spend (in this example we will use \$0.50) on that "lower value customer." The difference in advertising dollars between the "high value" and "lower value" customer is representative of the discount. The discount is equal to the difference in advertising dollars (\$2.00 minus \$0.50) divided by the maximum (which is represented by the value of a high value customer or \$2.00) X 100. In this example the discount is 75%.

Szabo also in at least column 26, lines 48-50 discloses an embodiment where the probability of user responding in desired way to the ad is not exceedingly high. In that case the cost per impression could be lower (discounted) or a higher valued ad substituted. The advertising rates may therefore be variable and even computed according to a continuous formula based on the characteristics of the user, the present search and past history of the user and possibly other factors for each imprint or user. It would have been obvious to one of ordinary skill in the art at the time of the to include in the customized user interface and targeted marketing forum of Frengut the ability to charge advertiser based on predicted consumer values as taught by Szabo, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of (optimizing the presentation of advertising to potential consumers and achieving a higher effectiveness of advertising) the combination were predictable.

Claim 69:

Frengut discloses:

- *receiving from a Web server a subset of a set of user information received from a user who has responded to a registration of a Web page administered by the Web server, the subset of the set of information limited to information that is*

necessary to determine whether the user meets criteria set forth to the promoter an advertiser of the plurality of advertisers (see at least paragraphs 25 and 51);

- when the criteria are met by the user, then transmitting to the user an opt-in window that includes a data entry mechanism that allows the user to select the advertiser, thereby indicating that the user desires information about the advertiser (see at least paragraphs 26 and 39); and*
- when the user selects the advertiser via the opt-in window, then transmitting to the advertiser the set of user information (see at least paragraphs 51 and 56);*

Frengut does not specifically disclose:

- comparing the subset of information to the criteria set forth by the advertiser to determine the criteria of the advertiser are met by the user;*
- when the criteria are met by the user, then receiving from the Web server any information in the set of information not included in the subset of the set of information;*

Frengut in at least paragraph 47 discloses an advertising filtration host that allows for the cumulative effect of adding "qualifying filters" to create various levels of demographics and behaviors of the users that the advertiser wants to reach. The host narrows down the targeting consumers by adding the appropriate filter to exclude or include the specific qualifying or disqualifying variables provided by the advertiser.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate in the light of Frengut teaching of advertising filtration system based on "qualifying filters with a determination unit to compare the filters level with the advertiser's criteria and for matches to download the rest of the set of user information (criteria, etc) with the motivation of providing advertisers with better qualified leads.

Frengut does not specifically disclose, but Szabo, however discloses:

- billing the advertiser, for each user that has opted-in to receive information from the advertiser; an amount that is determined by subtracting from a predetermined maximum bounty a product of the predetermined maximum bounty times at least one objective factor that indicates a quality of the user information (see at least 28, lines 4-35);*

The combination of Frengut and Szabo discloses:

- generating a bill with the promoter server computer and transmitting the bill to the advertiser, for each user that has opted –in for receiving information from the*

advertiser an amount that is determined by subtracting from a predetermined maximum bounty a product of the predetermined maximum bounty times a difference between a first average number and a second average number, wherein the first average number is an average of frequency who have opted-in to receiving information from the advertiser, and wherein the second average number is an average of frequency of the selected type of action performed by users accessing advertisement from the advertiser without having opted-in;

Fregut in at least paragraphs 53-56 discloses an embodiment of advertising rates that is based on statistical data about users and advertisers. Statistical data includes the number of matching users who actually receive the advertisement (opt-out and opt-in) and the most frequented ad pages (frequency of a selected type of action). The number of times certain custom pages are accessed (opt-in) and the number of time custom pages are accessed (frequency of a selected type of action). Fregut in at least paragraph 53 discloses a variety of advertising rate schemes that may be employed to generate revenue to support the customized service (opt-in). The more narrow the target, the higher the rate. Furthermore, Fregut, in at least paragraph 55 discloses advertising rates based on statistical data about the user and the advertiser, such as the number of times certain custom pages are accessed (opt-in) and the number of time custom pages are accessed (frequency of a selected type of action). The numbers of matching users who actually receive the advertisement (opt-out and opt-in) and the most frequented ad pages (frequency of a selected type of action).

Szabo in at least column 28, lines 4-34 discloses an embodiment of a higher effectiveness of advertising to potential consumers termed the ad response rate. The ad response rate is the probability that the potential consumer will purchase a particular item is correlated with certain personal characteristics, including demographic characteristics of the person or family unit. Thus, by predicting the ad response rate for a person, using a predicted acceptance rate to determine the amount that an advertiser should be charged for "high value customers, those that are predicted to accept/buy the advertiser's product/service." Using an example as follows: let's say that a high value customer is worth spending (\$2 of advertising dollars) therefore a "lower value customer, a customer which is predicted to for example only buy on occasion" is worth less in the amount of advertising dollars that an advertiser is willing to spend (in this example we will use \$0.50) on that "lower value customer." The difference in advertising dollars between the "high value" and "lower value" customer is representative of the discount. The discount is equal to the difference in advertising dollars (\$2.00 minus

\$0.50) divided by the maximum (which is represented by the value of a high value customer or \$2.00) X 100. In this example the discount is 75%.

Szabo also in at least column 26, lines 48-50 discloses an embodiment where the probability of user responding in desired way to the ad is not exceedingly high. In that case the cost per impression could be lower (discounted) or a higher valued ad substituted. The advertising rates may therefore be variable and even computed according to a continuous formula based on the characteristics of the user, the present search and past history of the user and possibly other factors for each imprint or user. It would have been obvious to one of ordinary skill in the art at the time of the to include in the customized user interface and targeted marketing forum of Frengut the ability to charge advertiser based on predicted consumer values as taught by Szabo, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of (optimizing the presentation of advertising to potential consumers and achieving a higher effectiveness of advertising) the combination were predictable.

Claim 7

The combination of Frengut/ Szabo Frengut/ Szabo disclose the limitations as shown above:

Frengut further discloses:

- *sending a confirmation e-mail to the user who has opted in at least selection (see at least paragraph 40);*

Claim 9:

The combination of Frengut/ Szabo discloses the limitations as shown above.

With regard to the limitation of:

- *using a portion of the user information to retrieve additional user data from a record; and assembling the additional user data into user information;*

Frengut in at least paragraph 47 discloses an advertising filtration host that allows for the cumulative effect of adding "qualifying filters" to create various levels of demographics and behaviors of the users that the advertiser wants to reach. The host narrows down the targeting consumers by adding the appropriate filter to exclude or include the specific qualifying or disqualifying variables provided by the advertiser.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate in the light of Frengut teaching of advertising filtration system based on "qualifying filters with a determination unit to compare the filters level with the advertiser's criteria and for matches to download the rest of the set of user information (criteria, etc) with the motivation of providing advertisers with better qualified leads.

24. Claims 2-3, 17-18 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al, US Pub No: 2002/0046099 in view of Szabo, US Pat No: 6,868,525 B1 in view of French et al US Pat No: 6,282,658 B2.

Claims 2-3, 17-18 and 32-33:

Frengut/ Szabo discloses the limitations as shown above.

Frengut does not specifically disclose, but French however discloses:

- *comparing at least one item of the user information to at least one database to ensure that the item of the user information is valid prior to the action of transmitting the set of the user information; and*
- *when the item of the user information is not found in the at least one database then taking a predetermined action.*
- *wherein the item of user information comprises an item selected from a group consisting of: user's postal code, a user's telephone number, a user age, a user's e-mail address and combinations thereof;*

See at least column 7, lines 57-65, column 10, lines 51-65 and column 9, lines 27-28;

It would have been obvious to one of ordinary skill in the art at the time of the to include in the customized user interface and predictable targeted marketing forum of Frengut/ Szabo the ability to verifications of user's identity when conducting an on-line transactions as taught by French, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of (validating submitted user's information is correct) the combination were predictable.

Examiner Notes: claims 2, 17 and 32 recites the limitations of: when the item of the user information is not found in the at least one database then taking a predetermined action. *It has been held that Language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation (MPEP §2106 II C).*

25. Claims 13-15 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al, US Pub No: 2002/0046099 in view of Szabo, US Pat No: 6,868,525 B1 in view of Brierley et al, US Pub No: 2002/0161779 A1.

Claims 13-15 and 28-30:

The combination of Frengut/ Szabo Frengut/ Szabo discloses the limitations as shown above.

Frengut does not specifically disclose, but Brierley however discloses:

- *wherein the at least one objective factor is a past performance indicator of a server hosting the web page* (see at least paragraphs 31 and 56);
- *wherein the at least one objective factor is an opt-in rate for similar promotions* (see at least paragraphs 31,56-57 and 79);
- *wherein the at least one objective factor is a confirmation e-mail open rate* (see at least paragraphs 6,38-39, 68 and fig 12 B with the associated text.;

It would have been obvious to one of ordinary skill in the art at the time of the to include in the customized user interface and predictable targeted marketing forum of Frengut/ Szabo the ability to evaluating on-line promotions effectiveness as taught by Brierley, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of (validating submitted user's information is correct) the combination were predictable.

26. Claims 11 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al, US Pub No: 2002/0046099 in view of Szabo, US Pat No: 6,868,525.

Claims 11 and 40:

The combination of Frengut/ Szabo discloses the limitations as shown above.

Frengut does not specifically disclose:

- *determining that part of the user information is missing; and using statistical census data to complete the user information;*

However, Official Notice is taken that it is old and well known in advertising art, when using consumers' demographic information to target advertisements, if one part of the demographic information is missing; advertiser is capable of obtaining the missing information from the census bureau. The U.S Census Bureau is used for obtaining

missing information for research, business marketing, planning purposes and sampling survey.

For example, for a known geographical area (zip-code), if the average income is missing, an advertiser can obtain the average income for the specified geographical area from the U.S. Census Data.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate in the in the light of Frengut teaching of Frengut teaching of customizing targeted marketing forum determination of missing user's information and using statistical census data to complete the user information with the motivation of providing the most accurate and available consumers' information to advertisers.

27. Claims 16 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al, US Pub No: 2002/0046099 in view of Szabo, US Pat No: 6,868,525 B1 in view of in view of Koningstein US Pub No: 2005/0096979.

Claims 16 and 31:

The combination of Frengut/ Szabo discloses the limitations as shown above.

Frengut does not specifically disclose, but Koningstein however discloses:

- *wherein the predetermined maximum bounty is a maximum bounty set by the advertiser (see at least paragraphs 81 and 82);*

It would have been obvious to one of ordinary skill in the art at the time of the to include in the customized user interface and predictable targeted marketing forum of Frengut/ Szabo the ability to set the maximum bounty by the advertiser as taught by Brierley, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of (allowing advertisers to set up a maximum budget through which advertisers are capable of providing effective and desirable advertisements to users) the combination were predictable.

Conclusion

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

29. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS from the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX Months from the mailing date of this final.

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Affaf Ahmed whose telephone number is 571-270-1835. The examiner can normally be reached on Monday - Friday, 8:30 am-6:00 pm est, alt Fridays off.

31. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached at 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AA

/Yehdega Retta/

Primary Examiner, Art Unit 3622

